

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Case No. 22-cr-226 (NEB/TNL)

Plaintiff,

v.

**SECOND AMENDED
CASE MANAGEMENT ORDER**

Haji Osman Salad (1),
Sharmarke Issa (4),
Farhiya Mohamud (5),
Kawsar Jama (6),
Abdikadir Kadiye (7), and
Khadra Abdi (9),

Defendants.

Counsel for all parties are instructed to review this Order carefully and in its entirety as it represents a significant deviation from the schedules that ordinarily govern criminal cases in the District of Minnesota.

This matter comes before the Court on Defendants’ Motion for Continuance of Deadlines, ECF No. 169, filed by Defendant Kawsar Jama on behalf of herself and Co-Defendants Haji Osman Salad, Sharmarke Issa, Farhiya Mohamud, Abdikadir Kadiye, and Khadra Abdi (collectively, “Defendants”). This matter was previously designated complex under 18 U.S.C. § 3161(h)(7)(B)(ii). *See generally* ECF No. 40.

Defendants state that, “[o]n April 28, 2023, the Government notified counsel that an additional 468,453 pages of documents would be produced, plus audio recordings, videos, and other items including spreadsheets.” ECF No. 169 at 1. These items were

received by the Coordinating Discovery Attorney on May 1, 2023, and made available on May 24, 2023. ECF No. 169 at 1. Due to the volume of information, Defendants and their counsel request an extension of the motions-filing deadline up to and including October 23, 2023, to “complete their review, research, and file effective motions.” ECF No. 169 at 2.

In the Court’s prior First Amended Arraignment Notice & Case Management Order, the Court stated that “any response to . . . a [party’s] request [to modify the schedule] shall be filed within three days.” ECF No. 143 at 6. Defendants’ motion was filed on June 20, 2023. The Court received an e-mail from the Government on June 22, 2023, indicating it did not oppose the requested extension. No other responses were filed.¹

Bearing in mind the complexity of this case, the voluminous discovery, and the absence of any objection to the requested continuance, the Court finds pursuant to 18 U.S.C. § 3161(h) that the ends of justice served by granting a continuance outweigh the best interests of the public and Defendants in a speedy trial and such continuance is necessary to provide Defendants and their counsel reasonable time necessary for effective preparation and to make efficient use of the parties’ resources. Therefore, **IT IS HEREBY ORDERED** that:

1. Defendants’ Motion for Continuance of Deadlines, ECF No. 169, is **GRANTED**.

¹ Defendant Sharmarke Issa joined in the requested extension. ECF No. 169 at 3. The following day, however, Defendant Sharmarke Issa filed a letter indicating that he does not intend to file motions. *See generally* ECF No. 170. Out of an abundance of caution, the Court has extended the motions-filing deadline with respect to Defendant Sharmarke Issa consistent with his co-defendants.

2. The period of time from **the date of this Order through October 23, 2023**, shall be excluded from Speedy Trial Act computations in this case. *See United States v. Mallett*, 751 F.3d 907, 911 (8th Cir. 2014) (“Exclusions of time attributable to one defendant apply to all codefendants.” (quotation omitted)); *United States v. Arrellano-Garcia*, 471 F.3d 897, 900 (8th Cir. 2006) (same).²

3. The Court previously issued an Order on Pretrial Disclosure & Preservation, ECF No. 48, which “proactively addresses certain non-dispositive motions that are commonly filed in the District of Minnesota, which seek discovery, notice of intent to introduce certain types of evidence, preservation of rough notes, and disclosure of evidence favorable to a defendant under *Brady v. Maryland*, 373 U.S. 83 (1963), and related authorities.” ECF No. 48 at 3. “These motions often seek relief that is already required by the Federal Rules of Criminal Procedure, Federal Rules of Evidence, and federal law.” ECF No. 48 at 3. “To promote the efficient management of these related cases, the Court issue[d the Order on Pretrial Disclosure & Preservation] to preemptively address such matters without the need for each defendant to file multiple motions on these subjects.” ECF No. 48 at 3. **Before filing any pretrial motions, a party shall consult the Order on Pretrial Disclosure & Preservation.**

² “All defendants who are joined for trial generally fall within the speedy trial computation of the latest codefendant,” *Henderson v. United States*, 476 U.S. 321, 323 n.2 (1986); *see* 18 U.S.C. § 3161(h)(7)(6) (excluding “[a] reasonable period of delay when the defendant is joined for trial with a codefendant as to whom the time for trial has not run and no motion for severance has been granted”); *see also, e.g., United States v. Cordova*, 157 F.3d 587, 598-99 (8th Cir. 1998).

4. All motions in the above-entitled case must be filed and served consistent with Federal Rules of Criminal Procedure 12(b) and 47 on or before **October 23, 2023**.³ *See* D. Minn. LR 12.1(c)(1). Two courtesy copies of all motions and responses must be delivered directly to the chambers of Magistrate Judge Tony N. Leung.⁴

5. **Counsel must electronically file a letter on or before October 23, 2023, if no motions will be filed and there is no need for hearing.**

6. All responses to motions must be filed by **December 4, 2023**. *See* D. Minn. LR 12.1(c)(2).

7. Any Notice of Intent to Call Witnesses must be filed by **December 4, 2023**. *See* D. Minn. LR. 12.1(c)(3)(A).

8. Any Responsive Notice of Intent to Call Witnesses must be filed by **December 11, 2023**. *See* D. Minn. LR 12.1(c)(3)(B).

9. A motions hearing will be held pursuant to Federal Rules of Criminal Procedure 12(c) where:

- a. The Government makes timely disclosures and a defendant identifies in the motions particularized matters for which an evidentiary hearing is necessary; or
- b. Oral argument is requested by either party in its motion, objection or response pleadings.

10. If required, the motions hearing must be heard before Magistrate Judge Tony N. Leung on **December 18, 2023, at 9:30 a.m.**, in Courtroom 9W, Diana E. Murphy United

³ “Before filing a motion under Fed. R. Crim. P. 12(b), the moving party must confer with the responding party. The parties must attempt in good faith to clarify and narrow the issues in dispute.” D. Minn. LR 12.1(b).

⁴ U.S. Mail or hand-deliver to 300 South Fourth Street, Suite 9W, Minneapolis, MN 55415.

States Courthouse, 300 South Fourth Street, **MINNEAPOLIS**, Minnesota. *See* D. Minn. LR 12.1(d). **The parties shall be prepared to continue the hearing into December 19, 2023, if necessary.**

11. TRIAL:

a. IF NO PRETRIAL MOTIONS ARE FILED BY A DEFENDANT, the following trial and trial-related dates are:

All voir dire questions, **motions for counsel to participate in voir dire**, and jury instructions must be submitted to District Judge Nancy E. Brasel on or before **February 12, 2024**.

This case must commence trial on **February 26, 2024, at 9:00 a.m.**, before District Judge Nancy E. Brasel in Courtroom 13W, Diana E. Murphy United States Courthouse, 300 South Fourth Street, **MINNEAPOLIS**, Minnesota.

b. IF PRETRIAL MOTIONS ARE FILED, the trial date, and other related dates, including but not limited to motions for counsel to participate in voir dire, will be rescheduled following the ruling on pretrial motions. Counsel must contact the Courtroom Deputy for District Judge Nancy E. Brasel to confirm the new trial date.

12. Should a party request modification of this schedule, any response to such a request shall be filed within three days.

13. All prior consistent orders remain in full force and effect.

14. Failure to comply with any provision of this Order or any other prior consistent Order shall subject the non-complying party, non-complying counsel and/or the party such counsel represents to any and all appropriate remedies, sanctions and the like.

Date: June 27, 2023

s/ Tony N. Leung
Tony N. Leung
United States Magistrate Judge
District of Minnesota

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